

REMARKS AND TRAVERSAL

In the outstanding Office Action, a Restriction Requirement was set forth by which the claims were restricted to one of the following two inventions:

I. Claims 13-15, 20-22 and 40, drawn to determine error email using predetermined character string, classified in class 709, subclass 206; and

II. Claims 16-19, 23-26, and 41, drawn to determine error mail using predetermined image data fixed code, classified in class 709, subclass 206.

Applicant respectfully traverses the above Restriction Requirement and submits that it is entirely inappropriate, for at least the reasons set forth below.

Initially, Applicant notes that the Examiner has failed to indicate the pendency of claims 30, 31, 35 and 36 which were previously indicated to be allowable.

In the Restriction Requirement, the Examiner asserted that "Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct of they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination II has separate utility such as judge that the received e-mail is an error mail when predetermined image data fixed code is detected. Subcombination I, on the other hand, judge error mail by detecting predetermined character string from the header of the email".

Further, in the Restriction Requirement, the Examiner asserts that it would be a serious burden to examine all of the claims because the inventions require different fields of search, and have acquired a separate status in the art due to their recognized divergent subject matter.

In this regard, M.P.E. P. § 803 provides that a requirement for restriction between patentably distinct inventions is proper only if there would be a serious burden on the Examiner

to examine all of the claims. Applicant respectfully submits that there would not be a serious burden on the Examiner to examine all of the claims of the present application for a number of reasons.

Applicant respectfully submits that no serious burden exists in examining the claims of both Inventions I and II since both of Inventions I and II have a common classification (class 709, subclass 206). Moreover, the claims of both Inventions I and II have already been examined by the Examiner and the prior art search for both of these inventions have already been performed. Accordingly, Applicant submits that there would be no serious burden on the Examiner to examine all of the claims in this application.

Additionally, Applicant notes that both inventions are directed to determining error e-mail and are directed to related (if not identical) subject matter areas that restriction is submitted to be inappropriate.


For at least these reasons, and consistent with office policy set forth in M.P.E.P. § 803, Applicant respectfully requests that the Examiner reconsider and withdraw the election requirement. For the foregoing reasons, the Restriction Requirement in this application is believed to be improper and it is respectfully requested that it be reconsidered and withdrawn, and all of the claims (i.e., claims 13-41) be examined.

Nevertheless, in order to be fully responsive, Applicant has elected, with traverse, Invention I, comprising claims 13-15, 20-22 and 40, in the event that the Examiner chooses not to reconsider and withdraw the Restriction Requirement.

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Should the Examiner have any questions or comments regarding the present paper or this application, the Examiner is respectfully invited to contact the undersigned at the below-listed number.

Respectfully submitted,
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